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UNCLAS SECTION 01 OF 02 NEW DELHI 000813

SIPDIS

FOR PM/ISO

E.O. 12958: N/A

TAGS: PREL MARR KMGT OTRA IN

SUBJECT: AVIATION FEES ISSUE IN INDIA: SEEK GUIDANCE FOR APRIL 30 DEADLINE FROM GOI

REF: A. 2007 STATE 106799

1B. 2007 NEW DELHI 5376

1C. NEW DELHI 473

1D. HOLMES-POPE EMAIL 4/15/2009

11. This is an action request for the Department. Please see paragraph 3.

12. Post appreciates the Department's guidance to date on the issue of aviation-related fees for official USG aircraft and understands an interagency process is currently underway to provide further guidance on a global policy. However the issue has become a more urgent problem for us since the March 6 diplomatic note (reftel C) received from the GOI rejecting reftel A's policy. With the imposition of an April 30 deadline (ref D), at which time Delhi International Airport Limited (DIAL), the private entity running commercial operations at Indira Gandhi International airport (IGI), states it "would not be able to extend credit for airport services being utilized by (the) U.S. Air Force at IGI Airport," Post feels the need to seek a solution which avoids the denial of services to USG aircraft by either the GOI or a commercial operator in India. Post notes that outstanding bills incurred since August 2007's policy announcement (reftel A) from both government and non-government (i.e. commercial) service providers now total over USD 180,000, with approximately USD 80,000 coming from DIAL.

13. Action request: After a thorough review of the history of this issue and what we believe is the intent of Reftel A guidance, post recommends the following way forward towards resolving this issue and to ensure future USG flights are not disrupted:

1A. Post requests permission to pay before the April 30 deadline bills which in our view are payable under reftel A's guidance for landing and commercial side parking fees from DIAL and other commercial entities in India (Mumbai International Airport Ltd, New Bangalore Airport, New Hyderabad Airport, Cochin Airport). An MEA contact suggested off-the-record to Poloff that should the Embassy pay up on past dues to DIAL, that would serve as a signal of our intention to resolve the longer-term issue and as a result, prevent any further action by the GOI or any other commercial provider throughout India.

1B. Subsequent to this decision, we request guidance on what constitutes a "commercial" and/or "government" airport in cases where ownership and operations are mixed between public and private entities (for background, see paragraphs 4-5

below). Concurrently or alternatively, we request guidance on whether to also pay bills from Indian Government agencies such as the Airports Authority of India, the Indian Air Force, and Hindustan Aeronautics Ltd.

¶C. As a next near step, Post recommends a team of policy and legal experts from Washington meet with Indian authorities on billing of aviation fees by commercial and government entities, for which payments fall under reftel policy.

¶D. Finally, post believes it in the USG interest to oppose the new Indian policy (reftel C) which said future USG flights would only be exempt from payment if "invited," and awaits guidance on this specific point. End action request.

¶4. Background. The Airports Authority of India (AAI), working under the Ministry of Civil Aviation, manages all the 126 airports in India. In 2006, the GOI handed over India's two most profitable airports - Delhi and Mumbai - to private companies to be modernized. At present, the airports which have been privatized and managed by a private company include Cochin International Airport, Bengaluru International Airport, Indira Gandhi International Airport in Delhi, Rajiv Gandhi International Airport in Hyderabad, and Chhatrapati Shivaji International Airport in Mumbai. Each of these airports is held by a private company and has a holding company established to manage day to day operations and airport business. For example, GMR Infrastructure Ltd has created Delhi International Airport Pvt Ltd (DIAL), a subsidiary of the company, for Delhi Airport.

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¶5. Background continued. In India, airports may be owned by the Central Government, public sector undertakings (PSUs), state governments, urban local bodies, private companies and individuals, and also by joint ventures involving one or more of the above. For example, Kolkata and Chennai airports are being modernized in a joint venture arrangement with the central government and a private company. The GOI has focused on growth and liberalization of the aviation sector in India as an important link to develop India's international economic and commercial competitiveness and its ability to attract foreign investment. This focus has opened the door to private investment in the sector, especially in airport modernization projects and with new green field airports. During this transitory period of moving the sector towards greater liberalization, there are murky definitions within India of what types of airports are specifically classified as government airports. Officially, India defines government airports as those managed by the military. However, with increased growth in civil aviation, the GOI has worked to share air space for civilian and defense aircraft and there are overlapping functions and charges for air navigation fees at what otherwise would be classified as commercial airports.

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